

REMARKS

This is in response to the Office Action of December 12, 2007. Applicants gratefully acknowledge the Examiner's indication that this application contains allowable subject matter. Claim 20 is amended to specify that R¹ designates a group of the formula -CR^b=CR^c-Ar and that Y cannot be a hydrogen atom. Claim 23 is cancelled, without prejudice. No new matter is introduced by this Amendment. Claims 20, 22, and 49-52 – all of which are believed now to be allowable – are pending in this application.

Information Disclosure Statement

On September 29, 2004, Applicants filed in this application an IDS in which the references to be considered by the Examiner were properly listed on a form PTO/SB/08a/b. The Examiner is respectfully requested to initial the citation of references on the form PTO/SB/08a/b of September 29, 2004, and to return a copy of the initialed form to Applicants. The cited references are of record (see Letter submitted on February 8, 2007). It is respectfully pointed out that the Examiner's mention in the outstanding Office Action of "the IDS, filed 09/26/2006" is erroneous. That was actually the date of an Office Action, which included a copy of the 09/29/2004 list of references with all the references crossed out.

Provisional rejection

Claims 20, 22, 23, and 50 were provisionally rejected on the ground of obviousness-type double patenting over claims 20, 22, 23, and 50 of copending application Serial No. 10/447,948. Office Action, pages 3-4. Deferral of consideration of this provisional ground of rejection is respectfully requested at this time.

Rejection under 35 U.S.C. § 112, 1st ¶

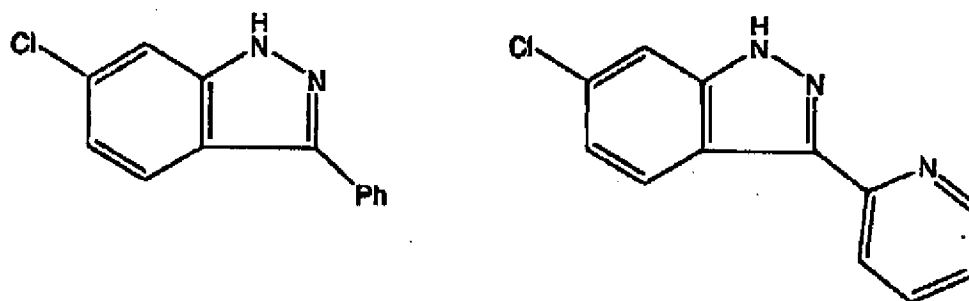
Claim 23 was rejected under the first paragraph of 35 U.S.C. § 112. Office Action, page 4. This ground of rejection is rendered moot by the cancellation of claim 23.

Prior art under 35 U.S.C. § 102(b)

Claims 20 and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Horner and were said to be rejectable as being anticipated by each of Mohr, Piozzi, Gorog, Burnistrov, Claverie, Wasley, Takayama, and Krishnan. Office Action, page 5. Applicants respectfully submit that claims 20 and 22 as amended herein are free of the prior art, as explained below:

Horner (DE 1,266,763)

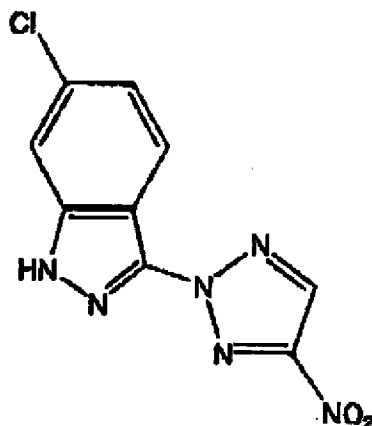
In the previously generically claimed invention, when R^c is Cl and R^1 is an aryl or a heteroaryl group, the following compounds disclosed in the cited art were included in the scope of the claimed invention:



By the present Amendment, however, R^1 is limited to $-CR^b=CR^c-Ar$. That is, the aryl or heteroaryl embodiments of R^1 cannot be bound directly to the main structure – instead they are bound thereto through a $-CR^b=CR^c-$ linkage. Also, by the present Amendment, even if L and X in -L-X-Y each represents a single bond, Y no longer represents hydrogen atom. Accordingly, the substituent L-X-Y cannot be a hydrogen atom. Accordingly, the compounds according to the presently claimed invention do not overlap with the above reference compounds in which the 5-position of the indazole ring – which corresponds to the location of the substituent L-X-Y in Applicants' formula (III) – represents hydrogen. Present claims 20 and 22 define inventions that are novel and unobviousness with respect to the Horner disclosure.

Mohr (DE 1,168,437)

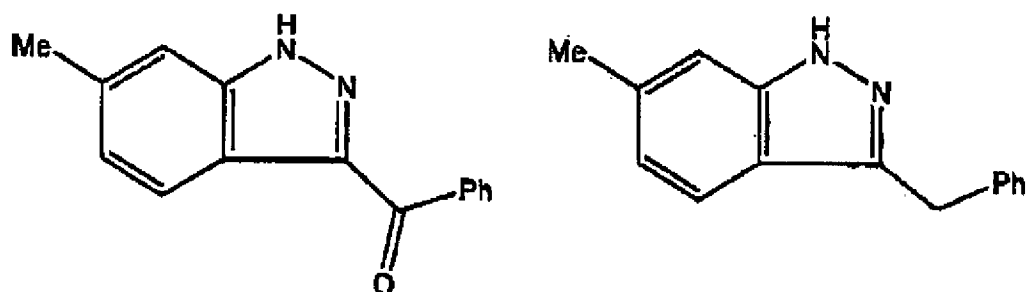
The following compound is disclosed in column 7 of the Mohr reference:



As discussed above, by the present Amendment, in Applicants' claims, the hetero ring of the R¹ substituent cannot be bound directly to the main structure and, moreover, the -L-X-Y substituent never represents hydrogen atom. Accordingly, the compound according to the claimed invention does not overlap with the compound of the cited art. The presently claimed invention is both novel and unobviousness with respect to the Mohr disclosure.

Piozzi (*Gazzetta Chimica Italiana*, 95(7), pp. 814-824, 1965)

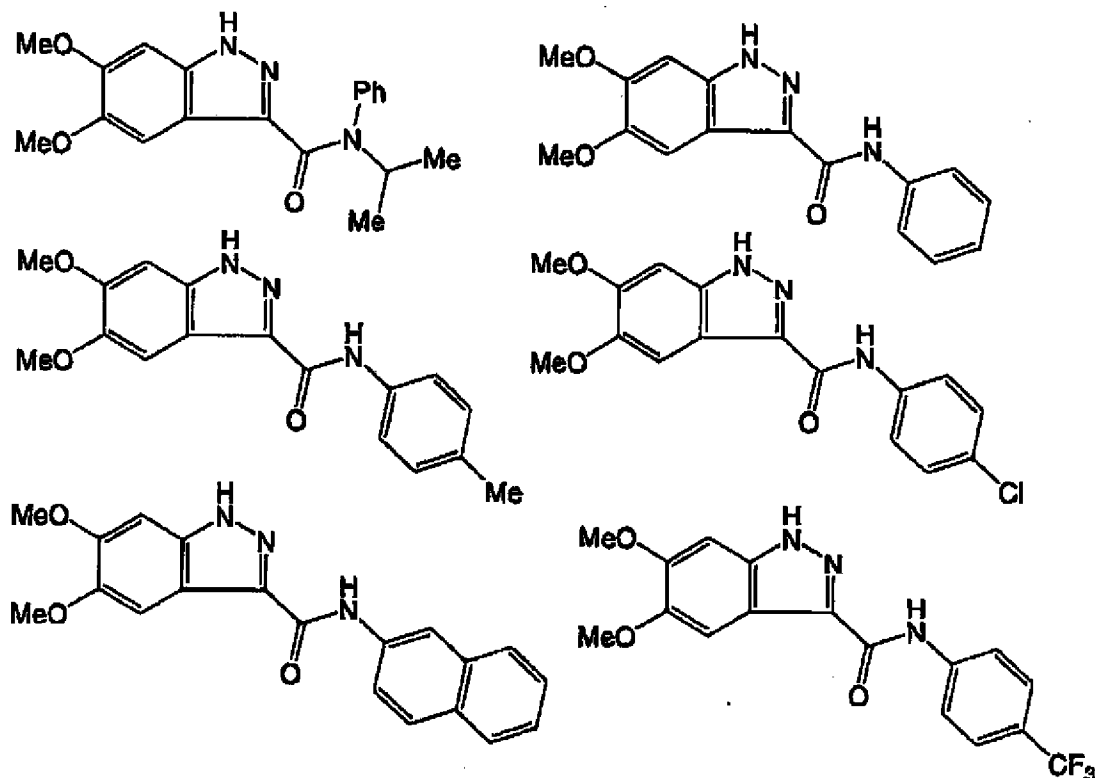
The following compounds are disclosed in the cited art:



By the present Amendment, however, the partial structure of -L-X-Y of the presently claimed invention does not represent a hydrogen atom. Present claims 20 and 22 define inventions that are novel and unobviousness with respect to the Piozzi disclosure.

Gorog (US 3,705,175)

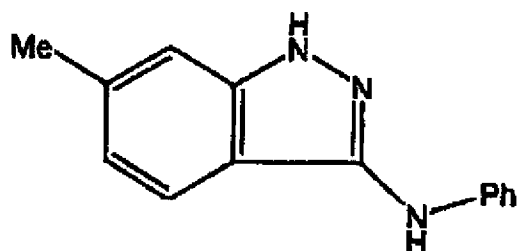
By the above amendments to Applicants' claims, R^1 is limited to $-CR^b=CR^c-Ar$. That is, the compounds according to the claimed invention do not overlap with the following compounds in which the corresponding partial structure is $-CO-NH-Ar$:



Present claims 20 and 22 accordingly define inventions that are both novel and unobviousness with respect to the disclosure of the Gorog patent.

Bumistrov (*Khimiya Geterotsiklicheskikh Soedinenii*, vol. 2, pp. 249-251, 1973)

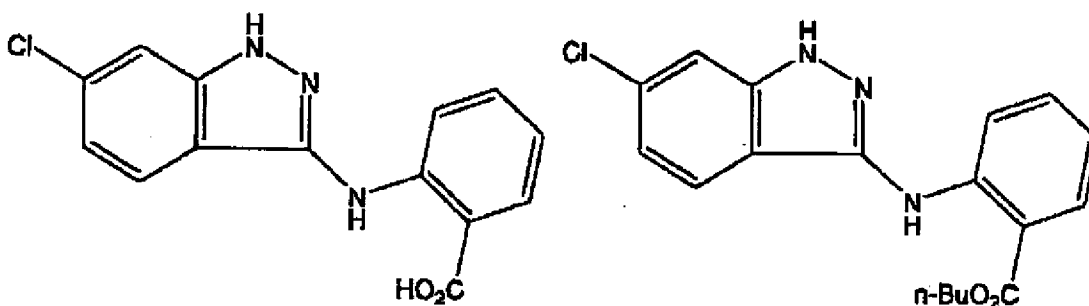
By the above amendments to Applicants' claims, R^1 is limited to $-CR^b=CR^c-Ar$. That is, the compounds according to the claimed invention do not overlap with the following compound in which the corresponding partial structure is $-NH-Ph$:



The presently claimed invention is both novel and unobviousness with respect to the Bumistrov disclosure.

Calverie (*Famaco, Edizione Scientifica*, 28(7), pp. 523-527, 1973)

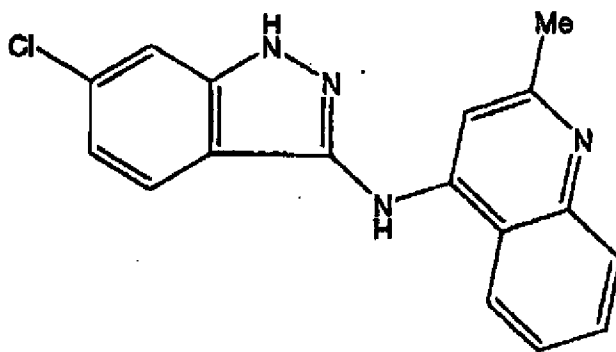
Applicants' claims are limited by the present Amendment to the situation in which R^1 is only $-CR^b=CR^c-Ar$. That is, the compound according to the claimed invention does not overlap with the following compounds in which the corresponding partial structure is $-NH-Ar$:



Present claims 20 and 22 define inventions that are novel and unobviousness with respect to the Calverie disclosure.

Wasley (US 3,755,332)

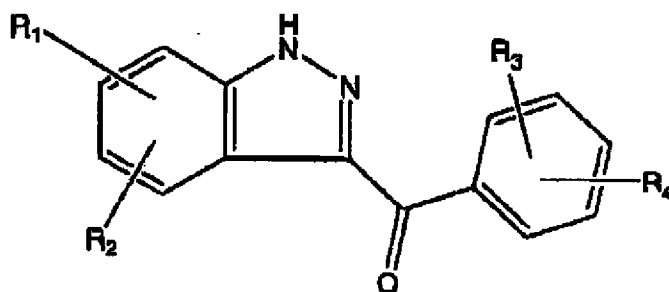
By the hereinabove amendments, R^1 is $-CR^b=CR^c-Ar$. That is, the compounds according to the claimed invention do not overlap with the following compound in which the corresponding partial structure is $-NH-Ar$:



Present claims 20 and 22 accordingly define inventions that are both novel and unobviousness with respect to the disclosure of the Wasley patent.

Takayama (JP 50-157363)

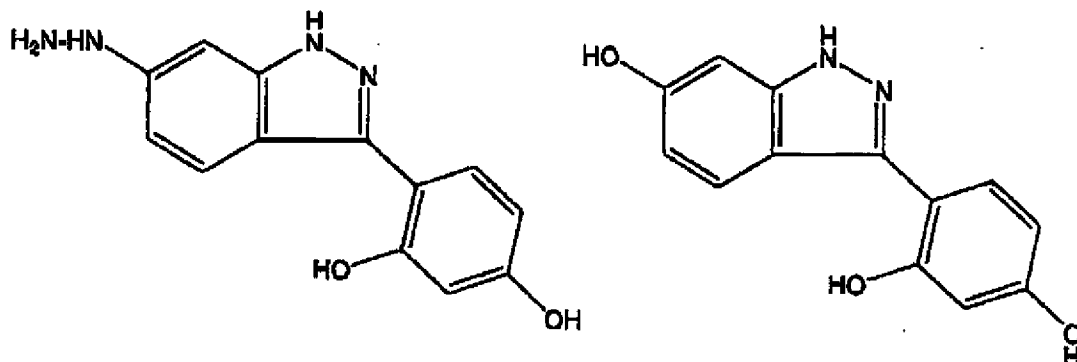
Applicants' claims are limited by the present Amendment to the situation in which R^1 is only $-CR^b=CR^c-Ar$. Thus, the compounds according to the claimed invention do not overlap with the following compound in which the corresponding partial structure is $-CO-Ar$:



Present claims 20 and 22 accordingly define inventions that are both novel and unobviousness with respect to the disclosure of the Takayama patent publication.

Krishnan (*J. Heterocyclic Chem.*, 25(2), pp. 447-452, 1988)

By the hereinabove amendments, R^1 is $-CR^b=CR^c-Ar$. That is, the compounds according to the claimed invention do not overlap with the following compound in which the corresponding partial structure is $-Ar$:



Present claims 20 and 22 define inventions that are novel and unobviousness with respect to the Krishnan disclosure.

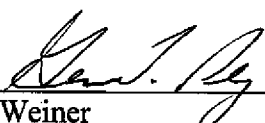
Interview requested

If there are any outstanding issues needing to be resolved in the present application, the Examiner is respectfully requested to contact Richard Gallagher, Registration No. 28,781, at (703) 205-8008 to arrange an interview in order to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: March 12, 2008

Respectfully submitted,

By  #48,501
for Marc S. Weiner
Registration No.: 32,181
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant